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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

OLABISI SALIS

Plaintiff,

- against -

AMERICAN EXPORT LINES; HOEGH  
AUTOLINERS, INC.

Defendants.

Civil Number: 07 CV 5949 (VM)

**AMERICAN EXPORT LINES ANSWER  
TO HOEGH AUTOLINERS, INC'S  
CROSS-CLAIM**

Defendant American Export Lines (hereinafter "AEL") by its attorneys Cichanowicz, Callan, Keane, Vengrow & Textor, LLP answers the Cross-Claim with civil number 07 CV 5949 as follows:

**IN RESPONSE TO THE CROSS-CLAIM AGAINST CO-DEFENDANT  
AMERICAN EXPORT LINES**

1. Denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 1 of Plaintiff's Cross-Claim.
2. Denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 2 of Plaintiff's Cross-Claim.

3. Admits that AEL is a corporation duly organized and existing pursuant to the laws of one of the States of the United States.

4. Denies each and every allegation contained in paragraph 4 of Plaintiff's Cross-Claim.

5. Denies each and every allegation contained in paragraph 5 of Plaintiff's Cross-Claim.

### **AFFIRMATIVE DEFENSES**

#### **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

6. This Court lacks personal jurisdiction over American Export Lines.

#### **AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

The circumstances alleged in Plaintiff's Complaint were due to causes for which American Express Lines is not liable or responsible by virtue of the provisions of its freight forwarding terms and conditions and/or general maritime law.

#### **AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

7. Plaintiff failed to mitigate its damages.

#### **AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

The circumstances alleged in Plaintiff's Complaint were caused by or due to the acts, omissions, fault or neglect of Plaintiff or its agents and/or resulted from the acts, omissions, fault or neglect of other persons or entities for which American Export Lines is neither responsible nor liable.

#### **AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

8. American Export Lines' liability, if any, is limited to \$50.00 pursuant to its freight forwarding terms and conditions.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

9 This action should be dismissed on the basis of the New Jersey forum selection clause contained in American Export Lines' freight forwarding terms and conditions.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

10. American Export Lines acted as a freight forwarder and therefore can have no carrier liability as a matter of law for the damage alleged in Plaintiff's Cross-Claim.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

11. Insufficiency of service of process.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

12. Plaintiff failed to give timely notice of the claim as required in American Export Lines' freight forwarding terms and conditions.

WHEREFORE, Defendant AEL demands judgment dismissing the Cross-Claim herein, and awarding AEL's costs, fees, including reasonable attorneys fees and disbursements of this action, and further demands judgment against the co-defendant, Hoegh Autoliners, Inc., for all sums which may be recovered by plaintiff against Defendant AEL and for attorneys' fees and disbursements of this action and for such other and further relief as to the Court may seem just and proper.

Dated: New York, New York  
December 27, 2007

Respectfully submitted,

CICHANOWICZ, CALLAN, KEANE,  
VENGROW & TEXTOR, LLP  
Attorneys for Defendant American Export Lines

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**CERTIFICATE OF SERVICE BY ECF AND BY REGULAR U.S. MAIL**

The undersigned declares under penalty of perjury that the following is true and correct:

1. I am over the age of eighteen years and I am not a party to this action.
2. On December 27, 2007, I served a complete copy of **Defendant American Export Lines' Answer to Defendant Hoegh Autoliners, Inc.'s Cross-Claim** by ECF to the following attorneys at their ECF registered address and by regular U.S. mail at the following addresses:

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/ s / Patrick Michael Decharles, II  
Patrick Michael DeCharles, II (PMD/9984)

Dated: December 27, 2007  
New York, New York